

PREHEARING CONFERENCE AND WORKSHOP
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for)
Certification for the) Docket No. 00-AFC-1
MIRANT DELTA'S CONTRA)
COSTA POWER PROJECT)
)
_____)

DELTA DIABLO SANITATION DISTRICT
BOARDROOM
2500 PITTSBURG-ANTIOCH HIGHWAY
ANTIOCH, CALIFORNIA

TUESDAY, MARCH 27, 2001
5:00 P. M.

Reported by:
James Ramos
Contract No. 170-99-001

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1 P R O C E E D I N G S

2 HEARING OFFICER SHEAN: Good evening,
3 ladies and gentlemen. I'm Garret Shean, the
4 Commission Hearing Officer on the Contra Costa
5 Power Project's Application for Certification and
6 we're here on the third day of Committee
7 Workshops, and this is a combined workshop and
8 prehearing conference.

9 Let me just indicate for the record, for
10 those who are here and I think most, at least of
11 the public portion of the audience, has been here
12 before. We had two days last week, Thursday and
13 Friday where we were discussing a number of topics
14 that are necessary to be reviewed for the
15 Commission decision. They also happen to have
16 been covered not only in the Applicant's
17 Application for Certification, but the final staff
18 assessment.

19 At the commencement of Friday's meeting
20 I made some remarks with regard to the process as
21 I foresaw it laying out, which had precipitated
22 the Applicant's offering of a modification to its
23 project which would -- at least was intended and
24 we hope it might and will largely mitigate many of
25 the impacts off its property that affect most

1 particularly the Sportsman's Yacht Club.

2 What I think it is best that we do now
3 is have the applicant go through the basics of the
4 modification as it proposes. We will then return
5 to our list and then before the evening concludes
6 we will go back through the list and attempt to
7 determine what topics people are going to want to
8 make a presentation on at the evidentiary hearing,
9 and then we'll discuss to some degree when that
10 evidentiary hearing will occur, what the general
11 procedure for it will be and how the rest of the
12 case lays out.

13 I attempted to assure, and I believe
14 that it's an assurance that both I can make from
15 the Committee's perspective and I believe that the
16 rest of the participants in the proceeding can
17 adhere to, is that we can conclude our proceeding
18 within the normal 12-month statutory period.
19 Notwithstanding the changes, it's my hope that we
20 will do that.

21 We are going to do everything that we
22 can to assure that that happens, because this
23 modification that is being offered at this point
24 by the applicant is to reduce or eliminate some
25 perceived environmental and community impacts and

1 that sort of action should be rewarded rather than
2 having a chilling effect by having an
3 inappropriate schedule extension.

4 So, with that, why don't we do some
5 introductions. Here with me are Commission staff
6 members, who can introduce yourselves and at least
7 for our Project Managers identify those in the
8 audience who are with us and then we'll go to the
9 Applicant.

10 PROJECT MANAGER DAVIS: My name is Cheri
11 Davis. I'm the Project Manager at the California
12 Energy Commission.

13 STAFF COUNSEL DeCARLO: I am Lisa
14 DeCarlo. I am the Energy Commission staff counsel
15 for this project.

16 PROJECT MANAGER DAVIS: On our staff we
17 have Tuan Ngo, who does air quality modeling and
18 Mike Ringer from Public Health.

19 MR. HARRER: Mark Harrer from Mirant
20 Corporation.

21 MR. VARANINI: I'm Gene Varanini. I'm
22 with the law firm of Livingston and Mattesich,
23 Sacramento and I'm the project counsel.

24 MR. ROBINSON: My name is John Robinson
25 and I'm a consultant with URS Corporation and

1 we're consultants to Mirant Corporation.

2 MR. SHILEIKIS: I'm Dale Shileikis, also
3 with URS Corporation, environmental consultants
4 for Mirant.

5 HEARING OFFICER SHEAN: Okay, Mr.
6 Chapman.

7 MR. CHAPMAN: Tony Chapman, Sportsman's
8 Yacht Club.

9 HEARING OFFICER SHEAN: Okay.

10 Mr. Harrer, why don't we have you go
11 ahead and briefly describe, or at least to the
12 extent you need to, fully describe your project
13 modification.

14 MR. HARRER: Okay, I can do that.

15 We've been in this process, now, the
16 licensing of the new plant for about nine or ten
17 months now and during that time we've had numerous
18 conversations with you and we've understood since
19 the beginning that your biggest concern was that
20 your interests were listened to.

21 Speaking for Mirant Corporation, I want
22 to assure you that one of our biggest interests is
23 ensuring that we have neighbors that are happy
24 with the plant and with the situation.

25 From our side, I guess, since the

1 beginning we've been concerned because the process
2 itself is a little bit rigid and doesn't really
3 lend itself to making wholesale changes.

4 Generally that involves delaying the project
5 significantly and having to go over and redo
6 portions of it.

7 Fortunately now we've been able to come
8 to an agreement with the CEC and with the three of
9 us that we found a means to meet your needs while
10 not delaying the project. And let me show you
11 briefly what we've done.

12 It's pretty straightforward. Those of
13 you who've seen this before recognize that this is
14 the Sportsman's Yacht Club up here at the north
15 that you're -- the Sausalito Ferry and that the
16 project used to take up this space right here down
17 to about there.

18 What we've agreed to do now is to move
19 the project south about 600 feet, south of this
20 road, approximately even with your entrance gate.
21 So the project will now be basically completely
22 out of your view. The view from the club house
23 will now be essentially the same as it was before,
24 so there'll be no change.

25 We've also agreed, this area, because we

1 had to take away a construction laydown area, we
2 want to use this area during the building of the
3 plant for construction laydown, but once it is
4 completed, once the building is completed in the
5 16 to 20 months, we'll restore that area to its
6 former use for recreation for our employees.

7 (Applause.)

8 MR. HARRER: There was also an issue
9 about possibly a noise issue with your gate.
10 We've agreed to modernize your gate entry system
11 so that it will work and won't be affected by any
12 noise that might impinge on it. That means a new
13 gate.

14 We also will consider and consider very
15 seriously means of quieting down these fans on
16 Unit 7.

17 And finally, the final part of this is
18 that we will look at methods to limit tree
19 planting so that it doesn't impact your harbor the
20 way you were concerned.

21 That is in a nutshell, that's what we're
22 proposing as an enhancement to this project.

23 Finally, I just want to say a couple of
24 words, because I know a lot of you are concerned
25 about the Gunderboom and it has come up from time

1 to time and I want to allay your fears.

2 The Gunderboom, as you know, goes here
3 around the intake. What we're going to be doing
4 is before the Gunderboom is installed we'll be
5 doing some maintenance dredging, some minor
6 dredging to just bring the intake back to what it
7 was before. It's silted up a little bit over the
8 years, I don't think it's been dredged in a number
9 of years.

10 But before we install the Gunderboom,
11 we're going to take a survey to determine what the
12 water depth is all around the Gunderboom and then
13 we'll establish a monitoring program to make sure
14 that if there are any significant changes that we
15 know what they are and then we'll mitigate those
16 if it does turn out to be what you're concerned
17 about.

18 So I hope that meets pretty much what
19 your needs are. That, in a nutshell, is pretty
20 much what we're proposing.

21 I really want to take my hat off to
22 Tony. He met with us this afternoon and in a
23 spirit of friendliness we were able to work this
24 thing out.

25 Thanks, much.

1 (Applause.)

2 HEARING OFFICER SHEAN: Thank you.

3 I guess it's only occasionally that you
4 get some satisfaction out of this job and, at
5 least for me, there's a lot, given where we've
6 come from since we began this workshop process on
7 Thursday to where we are today and it would not
8 have happened without the cooperation and good
9 will of the Applicant and also you, Mr. Chapman,
10 and members of your organization.

11 And I guess we should indicate on the
12 record that we enjoyed your hospitality Friday
13 night at the conclusion of our workshop. We were
14 invited, and so the three of us went over to
15 Sausalito, got a brief tour of the museum there
16 and a drink that I paid for and a hamburger that I
17 didn't.

18 (Laughter.)

19 HEARING OFFICER SHEAN: So, thank you
20 again.

21 Anyway, I think, given that, this has
22 probably created a lot of movement. Why don't we
23 hear from the staff at this point in terms of what
24 you think is absolutely and unequivocally
25 necessary with regard to any further analysis with

1 respect to the modified project so that both the
2 Applicant and the public can be aware of that.
3 And I have some additional remarks about how we'll
4 attempt to work our schedule to accommodate that.

5 And then we can sort of go -- I know
6 that it may be that, given this change, Mr.
7 Chapman, in particular, we are going to want to go
8 back over the list of things that people want to
9 adjudicate and that that list in terms of matters
10 that we covered Thursday and Friday may, and
11 hopefully, has changed and we can address that.

12 But let me just assure you and the
13 members of the public here that we are required by
14 law to have another meeting that is the hearing on
15 which we've built a record to do this and there
16 will be a clear opportunity for people to come to
17 that meeting and have some significant input.

18 So, let's go next to the staff in terms
19 of what you anticipate dealing with in terms of
20 analysis to respond to the changes.

21 PROJECT MANAGER DAVIS: In speaking with
22 staff about this proposed change, the feedback
23 I've received is that for visual analysis they
24 would prefer to do additional simulations. For
25 air quality, that's also a possibility -- for air

1 quality there may be some additional monitoring
2 that's necessary. And for noise, I don't think
3 there would be any additional modeling that would
4 be necessary.

5 And the remaining areas seem to be --
6 the staff seems to be pretty confident that the
7 impacts would be the same or less and that no
8 additional, I guess, time-consuming analysis would
9 be necessary.

10 STAFF COUNSEL DeCARLO: For biology
11 there -- our staff member said he would like to
12 take a walk through the site, just to make sure,
13 but he doesn't foresee any major additional
14 analysis. However we would like to get something
15 in writing on the changes that are proposed so
16 that staff can further look at the proposed
17 changes just to make sure.

18 I believe all staff will be addressing
19 this and filing supplemental testimony with
20 regards to the changes, but I don't anticipate any
21 major delays, at least with the exception of
22 possibly the areas Cheri just mentioned. And in
23 those areas we definitely will try our best to
24 expedite whatever review we will need to conduct.

25 But my suggestion, if possible, before

1 the hearings is that we have a meeting to kind of
2 sit down with staff and kind of walk through the
3 issues, just so that we can get as much of this
4 taken care before the formal hearing.

5 HEARING OFFICER SHEAN: Okay. Perhaps
6 we should get just a reaction from the Sportsman's
7 Yacht Club with respect to the modification, and
8 you want to say with respect to that before we go
9 into the specific topic areas?

10 MR. CHAPMAN: I probably don't have a
11 lot of comments right now, just because I don't
12 want to start gushing.

13 This change that I think -- this
14 enhanced plan demonstrates the ability to the
15 layman that what appears to be a minor change can
16 have a major impact. I'm not discounting what
17 this change means at all, but it is able to, with
18 the shift that has occurred on this enhanced site
19 plan, it goes directly to almost every concern
20 that Sportsman had.

21 And Sportsman, and myself in particular,
22 couldn't be happier with what we see. You know,
23 the minor changes, and I'll say as far as the
24 visual impacts and things, this is something that
25 we've already considered and honestly we can't

1 imagine a single point, key point of visual impact
2 where it would go downhill.

3 I think in several, besides just
4 Sportsman, there's several different key areas
5 where this can only serve as an improvement for
6 the visual impacts. So we would be, you know,
7 very comfortable with moving it at the pace that's
8 needed to make this plant put out little sparks.

9 HEARING OFFICER SHEAN: Okay.

10 Well then why don't we at least go
11 through our scheduled matters here and we were
12 going to start with air quality and those
13 conditions. That discussion is found on page 43
14 and the conditions themselves are beginning on
15 page 72.

16 Do we have anything from the Applicant
17 on these?

18 MR. HARRER: Yes, we do. Mark Strehlow
19 will be speaking for us.

20 MR. STREHLOW: Hello. My name is Mark
21 Strehlow, I work with URS.

22 Actually the first comment that we have
23 occurs before the conditions. On my copy it's on
24 page 70 -- page 71 in the book. It's called
25 Conditions of Certification. There's a number of

1 definitions. One of the definitions is gas
2 turbine start-up mode.

3 We see in the first line there that the
4 definition is defined as the first 180 minutes.
5 We'd like to make that the first 256 minutes.
6 That would make it consistent with what the
7 Applicant asked for and it's also consistent with
8 the definition that's found in the BAAQMD final
9 determination of compliance.

10 HEARING OFFICER SHEAN: How does staff
11 react to that? Does that appear appropriate?

12 MR. NGO: This definition actually is
13 from the District, so we just want to make sure if
14 it's okay with you to change that to 50 -- change
15 the definition of startup from 180 to --

16 UNIDENTIFIED SPEAKER: I don't think
17 that's our definition.

18 MR. NGO: Oh, it wasn't? I will check
19 on that and as far as I know if it's not the
20 District, then we'll find it out somehow, but they
21 probably don't have any problem with changing to
22 -- I don't think -- if this definition is not from
23 the District we will change it to be consistent
24 with our analysis.

25 MR. STREHLOW: I'm looking at the final

1 determination of compliance Contra Costa Power
2 Plant Unit 8, dated 2-2-01, page 24, the gas
3 turbine startup mode has the 256 minutes.

4 MR. NGO: We will change it.

5 MR. STREHLOW: Thank you.

6 Another area or a minor change that the
7 Applicant would like to see is on page, I believe
8 it would be 87. In the verification statements
9 for both AQ 30 and AQ 31 there's the line that the
10 source test results shall be submitted to the
11 district and the CEC CPM within 30 days of
12 conducting the tests and we would propose 30 in
13 both cases be replaced with 60 days.

14 There again that is to be consistent
15 with the 60 days that's mentioned in the BAAQMD
16 final determination of compliance condition 31.

17 MR. NGO: Can I ask you a question?

18 MR. STREHLOW: You may.

19 MR. NGO: Do you have any problem with
20 submitting the source test results to us within 30
21 days?

22 MR. STREHLOW: Well typically 60 days is
23 a standard and because it's already in the FDLIC we
24 just thought 60 days was a better number.

25 MR. NGO: We'll think about it. I think

1 it will probably be okay to make sure it's
2 consistent with FDLC.

3 MR. STREHLOW: Thank you.

4 That's it.

5 HEARING OFFICER SHEAN: That's it.

6 MR. STREHLOW: Yes, sir.

7 HEARING OFFICER SHEAN: Okay.

8 MR. NGO: Wait a minute, don't go too
9 fast, we've got one more thing.

10 (Laughter.)

11 MR. STREHLOW: We were trying to close
12 it out as quickly as possible.

13 MR. NGO: Condition AQ 29, under
14 verification and also condition AQ 32 on the ozone
15 verification. They also require source test
16 results to be submitted by 30 days. Do you want
17 that 60-day too or are you okay with that?

18 MR. STREHLOW: Please, thank you for
19 catching that, yes, we would like to request that
20 those be at 60 days as well.

21 Are there others?

22 MR. NGO: No, no, that's -- I just kind
23 of glanced through. If I see any other thing I
24 will make in the errata, I assume.

25 One other thing that's come up recently

1 from G. E. was that we have the condition here say
2 within 60 days of startup of the unit and on the
3 annual basis what we want you to do is to test the
4 equipment. Some of the other staff in my unit
5 have meetings with G. E. and they say they may not
6 guarantee that time period to have the equipment
7 checked out, whatever you want to call it, the
8 check out period, so you'll be able to test them.

9 So will you do me a favor by checking
10 with G. E. to make sure you're okay with the 60-
11 day? Personally I think we are talking about AQ
12 29 and AQ 30 -- actually AQ 32 also. If that's
13 okay with 60-day then we don't need to do
14 anything, but if it's not okay, then, you know,
15 let me know and we can change that to 90-day
16 instead.

17 MR. STREHLOW: We will check and get
18 back to you on that.

19 MR. NGO: Thank you.

20 PROJECT MANAGER DAVIS: What about AQ
21 36, 43 and 45? They were on the table that I
22 received, you wanted some changes to verification
23 timelines on those?

24 HEARING OFFICER SHEAN: That's just
25 because they have long lead times.

1 MR. SHILEIKIS: Yes, that's right.

2 These were all consistent with the kind of changes
3 and the spirit of what we talked about in the
4 first meeting, the long lead times before
5 construction.

6 PROJECT MANAGER DAVIS: I just thought
7 maybe we could discuss it right now.

8 MR. SHILEIKIS: Okay.

9 MR. NGO: So are we okay with this?

10 HEARING OFFICER SHEAN: Well we had a
11 list of these that the staff was going to go back
12 and respond to, so do you have a response or do
13 you want to ask and find out with respect to --

14 MR. NGO: Why don't we talk about it
15 right now, because I'm confused about what you
16 want in here. AQ 36.

17 HEARING OFFICER SHEAN: They want to
18 start building as soon as they can after they're
19 certified and the 180 days, for instance, in AQ --
20 120 days in AQ 36.

21 MR. NGO: So the lead time on the
22 paperwork and you want to short it --

23 HEARING OFFICER SHEAN: Cut that down.

24 MR. NGO: To how long?

25 MR. SHILEIKIS: Thirty days.

1 MR. NGO: Thirty days. So apply to
2 condition 36, 43 and 45?

3 PROJECT MANAGER DAVIS: Are you agreeing
4 to that?

5 MR. NGO: I don't think we really have
6 any problem.

7 HEARING OFFICER SHEAN: Okay. It seems
8 there's no problem with that.

9 MR. NGO: Anything else?

10 MR. SHILEIKIS: I think that's it.

11 HEARING OFFICER SHEAN: Okay.

12 Mr. Chapman.

13 MR. CHAPMAN: I have nothing.

14 HEARING OFFICER SHEAN: Okay.

15 Our other topic, we're following up with
16 public health and that's on page 99.

17 MR. STREHLOW: The Applicant has no
18 request to change this on the public health
19 section.

20 HEARING OFFICER SHEAN: Anything from
21 you, Mr. Chapman?

22 MR. CHAPMAN: I have nothing.

23 HEARING OFFICER SHEAN: Okay.

24 Do you have any comments on your own
25 analysis Mr. Ringer?

1 (Laughter.)

2 MR. RINGER: In order to justify my trip
3 out here I can go ahead and okay the change to
4 waste condition two verification if you'd like.
5 Changing from 60 days to 30 days for the
6 construction waste management plan.

7 PROJECT MANAGER DAVIS: I think your
8 trip was worthwhile.

9 HEARING OFFICER SHEAN: Well, let me
10 just indicate, we always enjoy the local
11 hospitality so that, in and of itself, is worth
12 the trip. So the waste two down to, how many
13 days?

14 PROJECT MANAGER DAVIS: Thirty.

15 HEARING OFFICER SHEAN: Thirty days, is
16 okay. All right, we're making progress.

17 All right, thank you, Mr. Ringer.

18 The last item -- I'm sorry, that's
19 really not quite true. Why don't we do
20 transportation, is it, traffic and transportation.
21 That's a hold-over from Friday.

22 Anything from the Applicant on this?

23 MR. SHILEIKIS: There is one comment on
24 the condition trans six on page 229 and the third
25 bullet on this page has a requirement to schedule

1 heavy vehicle equipment and building material
2 deliveries to occur during off-peak hours.

3 And the question relates to, there
4 doesn't seem to be, in the analysis, an impact or
5 a significant impact that's identified that would
6 require this condition, both, in our original
7 analysis nor in the staff's analysis.

8 So the question, I guess, is twofold is
9 questioning the need for this particular
10 condition. And secondly, if there was one,
11 there's no hours indicated as to what that would
12 be.

13 MR. VARANINI: I think we would willing
14 to simply indicate to the extent feasible we'll do
15 that and then --

16 HEARING OFFICER SHEAN: We're talking
17 about commute hours, right?

18 MR. VARANINI: Yeah. Having come over
19 here, I guess there is a point about staying off
20 those roads from about four to six.

21 MR. SHILEIKIS: I think we've all
22 experienced that and obviously I don't think
23 anybody would want to try to make deliveries
24 during that time period, particularly in the
25 afternoon. I think that would just be good

1 practice from a construction standpoint.

2 But there may be some things that could
3 be out of the Applicant's control in terms of
4 deliveries of some equipment that is hard to
5 predict at this time. And so that's just the
6 reason that I think they would do their best
7 planning possible for delivery of any kind of
8 heavy equipment, I'm sure.

9 HEARING OFFICER SHEAN: So that's the
10 idea is, to the extent possible?

11 MR. VARANINI: Yes.

12 STAFF COUNSEL DeCARLO: Our traffic and
13 transportation staff isn't here so we will just
14 get back to you on that.

15 HEARING OFFICER SHEAN: Inform your
16 traffic and transportation person that it sounds
17 good.

18 (Laughter.)

19 STAFF COUNSEL DeCARLO: I'll let him
20 know you said that.

21 HEARING OFFICER SHEAN: And that's it?

22 MR. SHILEIKIS: That's all.

23 HEARING OFFICER SHEAN: Mr. Chapman?

24 MR. CHAPMAN: With the consideration of
25 the enhanced site plan we're going to all keep our

1 fingers crossed that traffic and transportation
2 takes care of itself.

3 HEARING OFFICER SHEAN: And if I
4 understand correctly, fundamentally you're
5 entering and leaving from your own entrance and
6 that this should in no material way impact the
7 separate entrance to the Sportsman's Yacht Club?

8 MR. SHILEIKIS: That's correct.

9 HEARING OFFICER SHEAN: Okay.

10 The next topic was alternatives and I
11 guess other than some obvious need to -- well,
12 let's just go back there and see what we need to
13 do.

14 I think we need to understand our
15 discussion here isn't about whether or not the
16 text of staff's analysis is appropriate for the
17 moment, but whether or not -- well, okay, in the
18 absence of conditions, let me just indicate we're
19 going to rewrite this for the PMPDs, so everything
20 has changed and I don't see it being a problem.

21 Do you have any comments you want to
22 make on the topic area?

23 MR. CHAPMAN: I think the enhanced site
24 plan meets most of the conditions that the
25 alternative -- the FSA alternative chapter was

1 aiming at, so I think that Sportsman's Yacht Club
2 is satisfied with the enhanced site plan as
3 opposed to the alternate plan.

4 HEARING OFFICER SHEAN: How about the
5 staff, do you have any comment with respect to
6 this? I assume you're going to want to update --
7 do you want to update this?

8 STAFF COUNSEL DeCARLO: Yes, we will be
9 updating the alternative section based on the new
10 site.

11 HEARING OFFICER SHEAN: Okay.

12 All right, why don't we go back, if we
13 can to appendix A, which hopefully everyone either
14 has or has in their notes a sort of a reasonable
15 version of that and we can go down these topic
16 areas and see whether or not we want to have a
17 presentation at the evidentiary hearing.

18 And let me just say, I guess what I'm
19 thinking of to some degree is, given the fact that
20 Mr. Chapman has indicated that the enhanced
21 modification in virtually every material aspect
22 has addressed their concerns, it doesn't seem
23 appropriate that the evidentiary hearing be
24 modeled after something that's going to be
25 particularly litigious. So that despite, sort of

1 the itch that our profession has to mix it up --

2 (Laughter.)

3 HEARING OFFICER SHEAN: -- which at
4 times is a good thing, this may be one of those
5 times when it's not such a good thing. And I'm at
6 least considering the Huntington Beach model
7 should we want to have an evidentiary hearing,
8 which is largely just a presentation by the
9 parties of their direct testimony with rebuttal
10 but without the cross examination and we can
11 discuss that topic since it's largely a procedural
12 matter after this meeting. But I think given
13 where we have come to that if there is a topic we
14 need to go over that's probably the right way to
15 do it.

16 So, I'll just go down the list and we'll
17 see if people want to either make a presentation
18 or -- let's just leave it at that, make a
19 presentation on an issue in any particular topic
20 matter. And we'd already indicated as to cultural
21 and geology and paleontology that no one did and
22 we were going to take that uncontested on
23 declarations.

24 In land use and socio-economics my notes
25 show that the Sportsman's Yacht Club had requested

1 such an opportunity. Is that still the case now,
2 Mr. Chapman?

3 MR. CHAPMAN: No, I don't think we have
4 an issue on land use. I want to ask the question
5 to try to understand, where did we stand with
6 regards to the request that was made under the
7 socio-economics, where did we stand as far as
8 agreement with regards to the loss of the activity
9 based income? Did we come to an agreement there?

10 MR. HARRER: I thought we did. Maybe we
11 should deal with that off line.

12 HEARING OFFICER SHEAN: Yes, we'll deal
13 with that off line.

14 Okay. And so I will have in mind that
15 we'll reserve a spot for you, but that may no
16 longer be true after a short time.

17 MR. CHAPMAN: That will be fine.

18 HEARING OFFICER SHEAN: So I'll indicate
19 that land use now is on declarations, we'll hold
20 socio. Waste management was no hearing requested,
21 to be on declarations. Facility design was no
22 request for hearing.

23 We got to transmission system
24 engineering and I guess I don't have a response in
25 there, what --

1 MR. VARANINI: I think we can do that on
2 declaration. Our expert is attempting to contact
3 DWR and to find out exactly what their concern is.
4 We think that because they're on different,
5 essentially completely different circuits that
6 they could be two miles apart physically and
7 thousands of miles apart electrically in a never-
8 ending chase of electrons through the system, but
9 we don't know. But what we'll pledge to do is
10 contact them and try and resolve this.

11 Certainly I don't think litigating
12 issues in electrical engineering would be
13 necessarily a good thing either, even though both
14 of us are trained in that.

15 HEARING OFFICER SHEAN: Only for
16 insomniacs.

17 MR. VARANINI: Or people that are
18 fixated by cleaning out the system with a nice big
19 bang.

20 HEARING OFFICER SHEAN: All right.

21 Then we had transmission safety and
22 nuisance. I think that had been a yes, probably
23 by -- why don't we go back to, I believe Mr.
24 Harrer, on the issue here, because if I understand
25 correctly what you're showing here on this revised

1 map may change to bring the line at an even
2 shorter route essentially across the northern
3 portion of the new construction, is that correct?

4 MR. HARRER: Right, we want to route it
5 along the fence line in as short a distance as
6 possible, in fact, not at all, if we can avoid it.

7 PROJECT MANAGER DAVIS: So what's shown
8 here of it going along the south edge is just --

9 MR. HARRER: Right, it's just happened
10 to be, we were in a hurry.

11 PROJECT MANAGER DAVIS: Okay.

12 HEARING OFFICER SHEAN: Okay.

13 So that is likely to go away, do you
14 concur with that, Mr. Chapman?

15 MR. CHAPMAN: Yes.

16 HEARING OFFICER SHEAN: Okay. Then we
17 had --

18 MR. CHAPMAN: Let me just correct that.
19 I think from my desk here the problem has gone
20 away now. In conversations that we had this
21 afternoon, it was just kind of the realization
22 that there might be improvements even beyond the
23 plan the way it sets now, but as far as I'm
24 concerned right now it has gone away.

25 HEARING OFFICER SHEAN: Okay. And we

1 had a worker safety issue related to fire. How
2 are we on that?

3 MR. CHAPMAN: The separation that we've
4 achieved with this plan, I think mitigates that
5 well.

6 HEARING OFFICER SHEAN: Okay. And we
7 had no and no for reliability and efficiency in
8 terms of a request for hearing.

9 Soils and water resources was a yes.
10 I'll just go to you and see what you think?

11 MR. CHAPMAN: The soils and water
12 conversation that we had before really had
13 centered around a combination of the aquatic fish
14 barrier and the leaf drop in the harbor. The leaf
15 drop in the harbor, as we understand it, is not an
16 issue anymore and the offering of the Applicant
17 with regards to monitoring the aquatic fish
18 barrier and things is sufficient for our needs.

19 HEARING OFFICER SHEAN: And just for my
20 curiosity, and I almost have the feeling that I
21 asked this question last time, with respect to the
22 cleaning, if I understood it correctly, that the
23 issue was that there would be accumulated dust on
24 the aquatic barrier and that if, at the time of
25 clearing that it basically would work it's way

1 back or potentially could work it's way back
2 upstream and that the reason that you couldn't
3 just sort of schedule the barrier cleaning for
4 outgoing tide was that there are currents below
5 that, at that time, that may bring the silt or
6 dust particles back upstream. Is that -- do I
7 have that understanding correct now?

8 MR. VARANINI: Yes.

9 (Laughter.)

10 HEARING OFFICER SHEAN: Gene, you're the
11 only guy that I didn't expect to answer.

12 (Laughter.)

13 MR. SHILEIKIS: That's because the rest
14 of us are looking at each other.

15 MR. VARANINI: Mr. Hearing Officer, I'm
16 with you.

17 HEARING OFFICER SHEAN: Well, that's a
18 dangerous place to be.

19 Okay, so we'll indicate a no for that
20 now.

21 And traffic and transportation,
22 apparently, is a no.

23 HASMAT, at the time we did that was a
24 no.

25 Visual and let me ask this question,

1 too, because I'm not sure that it was made clear
2 to me. What is the anticipation now of any visual
3 screening, if at all, with regard to your
4 relocated unit?

5 MR. VARANINI: We have a continuing
6 problem that I think we may be able to work out
7 with the staff on the whole nothing of the plumes.

8 HEARING OFFICER SHEAN: Okay. First let
9 me ask this with respect to the trees. Are you
10 planning to do anything that involves planting
11 trees and if so --

12 MR. HARRER: We would expect that there
13 would be some planting of trees but on a
14 diminished scale from what was originally
15 proposed, since the view from the clubhouse now is
16 basically the same as it was without the plant at
17 all.

18 HEARING OFFICER SHEAN: Okay.

19 That's fine for now, we may want to
20 discuss that a little bit more as we get to the
21 evidentiary hearing as to whether or not the
22 conditions that we've got now serve the current
23 situation with regard to landscape screening.

24 Now we can do the plume.

25 MR. VARANINI: I think what -- you know

1 this has been kind of an outstanding issue in lots
2 and lots of cases with the Commission in terms of
3 plume and particularly plumes that are from the
4 cooling systems. And it really gets down to if we
5 remove the plume from the immediate vicinity of
6 the Yachtsman what do we need to do or what may be
7 issues associated with the other observers. And
8 the whole area of trying to simulate these plumes
9 is really kind of a dark art right now, using the
10 models to try to simulate the plume, and it gets
11 down to the plume control.

12 We're very anxious to see what kind of
13 issues or technologies the staff may have in mind
14 about that type of plume management because it
15 seems to us that we get crowded into a situation
16 where the obvious solution is to turn off the
17 radiator, and if you do that you have to shut down
18 the plant. And so there are some huge big ticket
19 issues with other forms of alternatives, but
20 generally speaking when you use this type of
21 technology and this type of application, the only
22 way to literally totally abate a plume is shut the
23 machine off.

24 Well, if you look in the region you can
25 see one plume after another for about 25 miles in

1 here and the notion that another plume degrades
2 the area, I'm not sure that that's a legitimate
3 CEQA issue. It may be a legitimate Warren Act
4 issue, but that's something that would have to be
5 kind of, in the absence of being able to work it
6 out, we'd have to try to hammer that out, hammer
7 out what the models actually tell us and what they
8 don't tell us and then finally whether the plume
9 is not inappropriate in an industrial zone. And
10 it seems to me to be an awful lot of effort to
11 prove the obvious.

12 And so if there is a technology that can
13 deal, kind of intermittently with this, we'd like
14 to know what it is. If there isn't, there's
15 something like six cases that have been approved
16 in industrial zones without any particular
17 fixation on mitigating a plume.

18 So that's the kind of, in a general way,
19 the concerns we have. It doesn't seem to us that
20 it's simple or obvious to solve a problem or
21 necessary, but I don't think it's something worth
22 your time. You're doing many things with the
23 Commission and my bottom line on this is it really
24 gets into differing views on esthetics and the
25 availability of technology and the cost of that.

1 And much as I'd like to cross examine
2 Gary Walker one more time I think we could submit
3 the issue. If we can't work it out with the
4 staff, we could submit the issue on the merits and
5 we're willing to live with the decision that the
6 Commission makes without some spectacular cross
7 examination on my part.

8 (Laughter.)

9 HEARING OFFICER SHEAN: And I'm sure it
10 would be.

11 MR. VARANINI: It has been.

12 HEARING OFFICER SHEAN: Yes.

13 All right, let me just ask the staff at
14 this point in terms of this visual plume, is it
15 that -- well, again, I guess I've done enough of
16 these. My understanding is that the visual plume
17 that gives -- or that has in the past given rise
18 to staff's concern as a visual impact has been a
19 plume that occurs generally during the winter
20 morning hours when meteorological conditions are
21 such that the heated air that is emanating** from
22 the top of the cooling tower creates the mist that
23 we call a plume and that that then rises
24 significantly into the air. Is that the situation
25 which your proposed condition is intended to

1 address?

2 STAFF COUNSEL DeCARLO: Not being a
3 technical analyst on this subject, let me try to
4 answer that question as best I can.

5 Our main concern with regard to the
6 plume analysis was ground-hugging plumes affecting
7 the neighboring property of the yacht club. Now
8 it could be that the movement of the site, of the
9 project, could obviate the need to even address
10 that.

11 I'm not sure how our analyst wants to
12 deal with that. I'm not sure if it's going to
13 require some more modeling or if it's something he
14 can just look at and say, okay, the way it stands
15 now there's no impact.

16 HEARING OFFICER SHEAN: Okay. And I
17 assume the ground-hugging nature of this plume
18 that they've analyzed is that that presents, while
19 a visual impact, is it also that it creates some
20 safety question with regard to the use of the road
21 that you get ingress and egress to the Sportsman's
22 Yacht Club about?

23 STAFF COUNSEL DeCARLO: Yeah.

24 HEARING OFFICER SHEAN: Okay. Now,
25 having read the condition, and if I understood it

1 correctly, that the staff wanted to set parameters
2 based upon the Applicant's modeling numbers and
3 that they would be the condition that the
4 Applicant would be required to meet, was there a
5 mitigation measure that the staff understood that
6 could be applied should the plume begin to
7 approach what the staff believed was
8 inappropriate?

9 STAFF COUNSEL DeCARLO: Well we do have
10 allowance for a complaint resolution form to be
11 made available to the local neighbors.

12 HEARING OFFICER SHEAN: Okay, let's
13 assume we've received a complaint and the
14 meteorological conditions are such that this is
15 what happens with this plume as the plant is being
16 operated, what change in operation would the staff
17 believe could occur that would reduce or eliminate
18 the ground-hugging plume impact?

19 STAFF COUNSEL DeCARLO: Well, I guess
20 there are several options and again not being a
21 power plant owner myself nor a technical analyst,
22 I don't know the details of the operation of a
23 power plant. However, we did do some research on
24 this.

25 There are what's called a plume

1 abatement tower. I guess it's sort of a hybrid
2 system, but not really. What dry cooling --

3 PROJECT MANAGER DAVIS: It's not a
4 hybrid system, but it's sometimes it's called --

5 STAFF COUNSEL DeCARLO: It's sometimes
6 referred to --

7 PROJECT MANAGER DAVIS: -- dry cooling.

8 HEARING OFFICER SHEAN: Okay, so you're
9 talking about changing the cooling.

10 STAFF COUNSEL DeCARLO: And there's
11 also, I guess, mass flow rates. I don't know how
12 you would alter mass flow rates, but your analysis
13 or your modeling was based on a 10,500 mass flow
14 rate. And I think our main reason for requiring
15 this condition is that we looked at that mass flow
16 rate and that looked a little high to us,
17 considering our analysis on other projects, which
18 is why we're just requiring you to comply with
19 what you modeled, because it seemed a little out
20 of the ordinary to us, but as long as you complied
21 with it we found that there wouldn't be any
22 impacts.

23 MR. VARANINI: When we looked at it we
24 saw that most of the time that we're fogging the
25 place, there's fog there already. So that you

1 have a 33 percent or so fog condition and, guess
2 what, when our vapor comes out it joins the fog,
3 so that's really -- it becomes a very difficult
4 thing to see how that particular scenario causes
5 difficulty.

6 The other problem on the other end of
7 the thing was that we can't find a real abatement
8 system with a standard cooling equipment other
9 than turning it off. And so we're more than
10 happy, I think, to look at the ideas and concepts,
11 but it just, we got put -- you know, it's kind of
12 being pushed into a corner and then having to say,
13 okay, we want to make sure that the trier of fact
14 understands this and that there's some benefit
15 cost of discipline applied, and then, hopefully,
16 some -- not common sense, but some kind of
17 planning sense that differs somewhat from the
18 enthusiasm that you get from the experts.

19 All of us have our own hobby horse and
20 we ride him around from time to time and
21 essentially a generalists review is very very
22 helpful.

23 HEARING OFFICER SHEAN: Okay. Well,
24 we'll include that as a topic for the evidentiary
25 hearing.

1 That moves us on to noise. Anything
2 from you on that, Mr. Chapman?

3 MR. CHAPMAN: Nothing. I believe the
4 Applicant has an offer here. Nothing, as long
5 as -- contingent upon this enhanced site plan and
6 Applicant's offer.

7 MR. HARRER: Yes, there was a portion of
8 that plan addressed that issue. There's the gate
9 issue.

10 HEARING OFFICER SHEAN: All right -- oh,
11 the gate.

12 MS. FORREST: I represent the City of
13 Antioch --

14 HEARING OFFICER SHEAN: Yes, we need you
15 to come up to a microphone so we can get this
16 down, please.

17 MS. FORREST: My name is Jaque Forrest
18 and I represent the city of Antioch, an intervenor
19 on the application.

20 The city still has some issues with
21 noise evaluation and noise in general and we would
22 like to see that brought forward to the
23 evidentiary hearing.

24 HEARING OFFICER SHEAN: And is there
25 something in particular that we can focus on with

1 regard to the noise so that we know what to
2 prepare for?

3 MS. FORREST: Well, it might be helpful,
4 and unfortunately we arrived a little late and we
5 missed the discussion of the enhanced -- or site
6 plan and it appears that some of the changes that
7 have been made might address some of the noise
8 impacts that the city anticipates.

9 So if we could get maybe a five-minute
10 synopsis of what that was it would be really
11 helpful.

12 HEARING OFFICER SHEAN: Sure, that might
13 be helpful. Then we'll also let you hook up with
14 their consultants and they may be able to, between
15 now and the time we get to those hearings, address
16 your concerns.

17 MS. FORREST: Okay.

18 HEARING OFFICER SHEAN: Why don't you
19 just give them a brief --

20 MR. HARRER: You want it after the
21 proceeding? Maybe we could sit down and a picture
22 is worth a thousand words?

23 MS. FORREST: Sure.

24 HEARING OFFICER SHEAN: Is that
25 sufficient for you?

1 MS. FORREST: That would be fine.

2 HEARING OFFICER SHEAN: We'll give you a
3 placeholder then and if you find you don't need,
4 we can take it out.

5 MS. FORREST: Okay, thank you.

6 HEARING OFFICER SHEAN: Thank you.

7 Biological resources, anything -- Mr.
8 Chapman, I guess we'll come back to you.

9 MR. CHAPMAN: Nothing here.

10 HEARING OFFICER SHEAN: All right. And
11 on air quality, I guess the staff is -- first of
12 all do we have a represent here from the local air
13 quality district?

14 Yes, sir. Do you anticipate needing
15 time to do either a further modeling or if not
16 modeling some analysis to attempt to address the
17 effect of --

18 UNIDENTIFIED VOICE: Yeah, we expect in
19 these two weeks to put the modeling --

20 HEARING OFFICER SHEAN: Okay, so an
21 anticipated two weeks for the district -- the
22 district anticipates needing about another two
23 weeks to conduct whatever further modeling you
24 need to to address the change, right?

25 UNIDENTIFIED VOICE: We need a

1 description of the changes.

2 HEARING OFFICER SHEAN: Okay, and that's
3 largely a textural thing you need, is that right?

4 UNIDENTIFIED VOICE: Yes.

5 HEARING OFFICER SHEAN: All right.
6 We'll, I think, though, put a placeholder there
7 for that topic so that we can address the state of
8 where we are. I have on behalf of the Committee
9 no problem with our moving forward on the basis of
10 either the preliminary or the preliminary revised,
11 so that so long as we have a final DOC on the data
12 of the Commission decision, I'm fine with that.

13 Will that accommodate the staff's
14 interests?

15 STAFF COUNSEL DeCARLO: Generally we
16 incorporate the FDOC into our final staff
17 assessment so I would definitely have to consult
18 with Tuan on that. Oh, here he is, Tuan.

19 MR. NGO: I'm sorry, I didn't hear the
20 question.

21 HEARING OFFICER SHEAN: Okay, we won't
22 worry about it. We're going to hold a spot open.
23 It ought to accommodate you guys, you'll have an
24 opportunity to address the Committee with any
25 revisions that the staff will make to its air

1 quality analysis. Okay.

2 And public health, do we need an
3 opportunity on public health? Everyone is nodding
4 their heads no or wagging it, whichever we call
5 that.

6 And lastly is alternatives. I guess
7 what we should do is have a placeholder for that,
8 since the staff's analysis will be significantly
9 altered and we just want to make sure that all our
10 ducks are lined up with respect to that as
11 supporting information. And perhaps the Applicant
12 wants to address that as well, but at least we'll
13 have a placeholder for that.

14 Well, the landscape of our evidentiary
15 hearing has changed a lot and for the better. Let
16 me just say this about what lies ahead of us.

17 In order to process this, not only on
18 the schedule that's appropriate for where we are
19 today, but also I think, and I have to say this,
20 in recognition of the incredible workload at the
21 Commission, my anticipation is that this matter
22 will be presented to the full Commission for a
23 decision on Wednesday, May 30th. And for us to do
24 that and to have a public comment, the required
25 public comment period on the Presiding Member's

1 Proposed Decision --

2 MR. HARRER: I coughed and we missed the
3 date.

4 HEARING OFFICER SHEAN: May 30th, I
5 believe.

6 The Presiding Member's Proposed Decision
7 needs to be issued on the order of April 28th or
8 so in order to afford the 30-day public comment
9 period which, if there are no material revisions
10 to the proposed decision, would then allow it to
11 be heard by the Commission on the 30th.

12 In order to do that we obviously have to
13 have our evidentiary hearings sometime before
14 April 28th. So I think you can anticipate we'll
15 try to do that somewhere after tax day, but before
16 we get too far into the twenties of days. So just
17 know that that's what we're looking at, because
18 we'll probably be dealing with our Huntington
19 Beach decision either on the 11th, which I doubt
20 we're going to be able to hold or the 18th.

21 So that's our situation and what it
22 means is that, to some degree, on the basis of the
23 matters that we know are not contested, resources
24 that are available to me can help me with some
25 ghost writing. And with that, I think is how we

1 are going to manage to pull the rabbit out of the
2 hat. But that's the general layout of the
3 remainder of the proceedings.

4 So if we have any comments or concerns
5 about that, maybe we should air that now, either
6 from the Applicant, or you, Mr. Chapman, or from
7 the staff.

8 STAFF COUNSEL DeCARLO: I'm sorry. I
9 would just like to say that the sooner we get
10 something in writing regarding the details of the
11 new project, the quicker that we can review it and
12 determine what information we do need in addition.

13 MR. VARANINI: We'll do our very best to
14 get it to you quickly. The other thing it seems
15 to me, just as a kind of a management process, I
16 think we're going to need to get together, the
17 parties are going to need to get together at least
18 one last time on the conditions, so that we're all
19 on the same page.

20 We find every time we go through them,
21 somebody in our team finds something and
22 particularly they start moving towards the
23 architect, engineers and then EPCs and so that's
24 just a fact of life and it's the way it works.

25 The other is it seems to me is if we've

1 got a couple of issues and certainly the movement
2 of the sites, or the enhancement, is important.
3 But the others, there are some dangling issues
4 that I think we can work out, including the plume
5 issue and we ought to at least anticipate getting
6 together to do that and then we can enrich the
7 record with what we do or don't do. But I know
8 you're so pressed that it's kind of like saying
9 you need to pick a date and then we'll facilitate
10 that date and we would hope we could do that right
11 away.

12 And then finally, Hearing Officer Shean,
13 would you like us to go back to the format that
14 you proposed in terms of inputs to the Committee
15 and the outline that you proposed at one point
16 that mimics the Mountainview outline and to start
17 moving material into that format?

18 HEARING OFFICER SHEAN: I'm working on
19 the logistics of that and probably it's better to
20 respond to you once I have information that I'm
21 developing here in the next couple of days.

22 MR. VARANINI: And for the public, the
23 Mountainview case is a case that was done down in
24 Southern California and parts of the presentation
25 and part of the information were modified so that

1 it was in English and giving the public real
2 information about what's going on.

3 It's been an ongoing program of Mr.
4 Shean and some of the Commissioners to try to get
5 documents out that don't win the drop contest and
6 it takes a little bit of time, because we have to
7 cull out an awful lot of, perhaps, unnecessary
8 detail to get these things reformatted. But then
9 we give you the detail in the backup document for
10 insomniacs and other people who are fixated on
11 this process.

12 HEARING OFFICER SHEAN: And I should
13 just indicate Mr. Varanini's firm was involved in
14 that particular case, so that's why he is as
15 intimately familiar with that as he is. But I
16 think, I'll know that in a couple of days.

17 I think what we should do now is offer
18 the public, who have some tonight, an opportunity
19 to address us with any comments that you would
20 like to make.

21 The next thing you will hear or see from
22 me will be a notice of the evidentiary hearings
23 and a general layout of the procedures that we
24 will use. And again I think the appropriate thing
25 in the absence of an objection from any of the

1 parties or intervenors is to conduct it in the
2 manner that it was conducted in the Huntington
3 Beach proceeding, which is largely the less
4 litigious format, and that will essentially ease
5 all the non-lawyers that their participation can
6 be relatively easy and pretty much painless.

7 And so with that, -- and let me add
8 further that the staff is specifically authorized
9 to make contact with both the Applicant and the
10 intervenors in the attempt to appropriately, I
11 think, formulate one or more workshops to discuss
12 the matters which are either outstanding or need
13 to be addressed because of the project
14 enhancement. And so it's fine with the Committee
15 to do that.

16 MR. VARANINI: And I had a point for Mr.
17 Chapman. When we were still in our militant role,
18 we sent an objection to the record yesterday on
19 your latest set of data requests, and I would
20 think that, given where we are now, that you would
21 entertain withdrawing them.

22 MR. CHAPMAN: Yes.

23 MR. VARANINI: Thank you.

24 HEARING OFFICER SHEAN: Okay.

25 Good, because I didn't want to have to

1 address that. I was going to put it off.

2 With that, the microphone is here for
3 the public. I guess we're going to need to ask
4 you to come either to Mr. Chapman's table and grab
5 that mike and we're more than happy to hear from
6 you.

7 MR. WORRELL: Bill Worrell, Antioch
8 resident and member of Sportsman, Incorporated and
9 Striped Bass Association of California.

10 I want to thank the Energy Commission a
11 the Mirant Corporation. I called them Mirant for
12 so long it's hard for me to say the right -- to
13 pronounce it properly now.

14 (Laughter.)

15 MR. WORRELL: I want to thank all of our
16 club members that have supported us and the
17 newspaper, our local newspaper who supported us
18 and kept the public informed. I just think that
19 this is -- proves that the democratic process can
20 get work and the corporate powers can be
21 sympathetic to the small guy.

22 And I want to especially thank all the
23 Energy Commission. They didn't really help us,
24 but they didn't hinder us and they made us work
25 for every little inch.

1 (Laughter.)

2 MR. WORRELL: But thank you.

3 HEARING OFFICER SHEAN: And do you call
4 yourself the small guy?

5 (Laughter.)

6 HEARING OFFICER SHEAN: Anyone else from
7 the audience?

8 All right, once again it's been a
9 pleasure being here in town, and we look forward
10 to coming back. We will probably do a different
11 location so that we don't have any gate problems
12 like we did on Friday, but we enjoyed being here.
13 We look forward to seeing you again in nearly late
14 April and with that our meeting is adjourned.

15 Thank you.

16 (Thereupon the Energy

17 Commission Prehearing and

18 Workshop was adjourned at 6:22

19 p.m.)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Committee Prehearing and Workshop; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said workshop, nor in any way interested in outcome of said workshop.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of April, 2001.

JAMES RAMOS

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